

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-1853

United States of America,

Appellant,

v.

Ronnie Joe Benson,

Appellee.

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Appeal from the United States
District Court for the
Eastern District of Arkansas

[UNPUBLISHED]

Submitted: November 16, 2001

Filed: December 3, 2001

Before McMILLIAN and MORRIS SHEPPARD ARNOLD, Circuit Judges, and
NANGLE,¹ District Judge.

PER CURIAM.

Ronnie Joe Benson brought this action in the United States District Court for the Eastern District of Arkansas, seeking relief pursuant to 28 U.S.C. § 2255 from the sentence imposed on him in a drug conspiracy case. The district court entered an order stating that Benson would be resentenced. United States v. Benson, No. 4:00-CV-00333 (E. D. Ark. Feb. 7, 2001). The United States of America (the government)

¹The Honorable John F. Nangle, United States District Judge for the Eastern District of Missouri, sitting by designation.

appealed, citing 28 U.S.C. § 2253 and Fed. R. App. P. 4(a) as authority for this court's jurisdiction on appeal.

Upon review, we conclude that we lack appellate jurisdiction because there is no final order from which the government is appealing. See 28 U.S.C. § 2253(a) (“In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the *final* order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.”) (emphasis added).

The government's appeal is dismissed.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.